

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSES RIC-E BECK,

Defendant.

Case No. 24-CR-28-JFH

OPINION AND ORDER

Before the Court is the Government’s First Motion in Limine (“Motion”). Dkt. No. 32. Defendant has filed a response in opposition to the Motion [Dkt. No. 33], and this matter is ripe for consideration.

The Government moves the Court to exclude from evidence any “testimony or argument” before the jury that the Defendant’s Oklahoma state court conviction for Lewd and Indecent Proposals to a Child Under 16 should be abrogated by retroactive application of *McGirt v. Oklahoma*, 140 S. Ct. 659 (2019). Dkt. No. 32, p. 1. The Government argues that the Court is the arbiter of the law, and, as such, argument regarding the legal effect, *vel non*, of the *McGirt* decision on Defendant’s 2008 conviction should be excluded from any jury trial. *Id.*

Defendant responds that he has a fundamental right to testify in his own behalf and that “his beliefs concerning his tribal heritage and *McGirt v. Oklahoma* [] are relevant to his alleged conduct herein.” Dkt. No. 33.

Any argument to the jury that the *McGirt* decision has, as a matter of law, abrogated Defendant’s prior conviction, would be obviously improper before a jury. Thus, the Government’s Motion in Limine is granted to this extent, and Defendant is precluded from making any argument

or testimony to the jury claiming, asserting, or arguing that the *McGirt* decision has, as a matter of law, abrogated Defendant's prior conviction.

It appears, based upon Defendant's response brief, that Defendant may seek to testify that he believed that the *McGirt* decision impacted his duty to register as a sex offender. The Court is not persuaded that such argument or testimony from Defendant is permissible; to permit Defendant to base his defense on his own misconstruction of the law would be wholly counter to the firmly enshrined tenet that "ignorance of the law is no excuse." *United States v. Villagomez*, CR-08-19-D, 2008 U.S. Dist. LEXIS 26814, *11 (W.D. Okla. Apr. 2, 2008) (citing *United States v. Platte*, 401 F.3d 1176, 1183-84 (10th Cir. 2005)). The Court notes that Defendant has provided the Court with no authority justifying his arguments.

IT IS THEREFORE ORDERED that the Government's Motion in Limine [Dkt. No. 32] is granted.

Dated this 21st day of July 2024.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE